



PUBLIC HEARING

A public hearing was held by the Spalding County Board of Commissioners in their office in the Courthouse Annex, Thursday, August 22, 2002 beginning at 6:00 o'clock p.m. with Commissioners, Michael Kendall, Martha McDaniel, Johnie McDaniel and Dick Morrow present. Commissioner Merrill Massengale was absent. Also present were County Manager William Wilson, Assistant County Manager Michael Sabine, Zoning Attorney Newton Galloway and County Clerk Phyllis Doane. Senior Planner Lee Craig was also present.

A G E N D A

A. Call to order: Chairman Johnie McDaniel

B. Special Exceptions:

1. **Application #02-25S:** Danny E. Henderson, Owner – 621 County Line Church Road (2.45 acres located in Land Lot 145 of the 3rd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mr. Danny Henderson gave his address as 621 County Line Church Road and stated he was owner of this piece of property. He and his wife were asking to replace their old existing mobile home with a new one.

There was no one else signed up to speak for or against.

Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Kendall Application #02-25S was approved by a vote of 3-1 with Commissioner Morrow voting against the motion.

C. Rezoning:

1. **Application #02-12Z: Lift from the table -** Paul Eugene Jr. and Valerie S. Reynolds, Owners – 83.5899 acres on Georgia State Route 16 West located in Land Lot 23 of the 1st Land District – requesting a rezoning from AR-1, Agricultural and Residential, to AR-2, Rural Reserve.

Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Morrow the application was lifted from the table by a unanimous vote of 4-0.

Mr. Gene Reynolds gave his address as 100 Surrey Trail, Peachtree City, GA and stated he was owner of the property. The application is to divide the parcel into eight (8) residential building lots and the lots will vary in size from 5.9 to 15.9 acres. Mr. Reynolds stated he had already received approval from DOT for the driveway cuts off of State Highway 16.

It was noted that the Ruck's were concerned with this proposal as they operate Ruck's Dairy across Georgia Highway 16 and they wished to have their letter to the Planning and Zoning Commission stated in the record. Chairman McDaniel read the letter, which is as follows:

“June 17, 2002

Planning and Zoning Commission

We are writing in regards to the rezoning of the property of Mr. and Mrs. Reynolds, located on Highway 16 just past Lakeview Drive. We have lived and maintained a dairy here since 1968. We are concerned that future buyers of this property need to understand that there are odors and noise associated with this farm. This is a working dairy farm! This is how we make our living.

We have machinery running, animal's sounds, and depending on the weather, the odors vary. We feel that this is a true concern for future buyers.

We have been involved with this community since we moved here and have had a good relationship with our neighbors. We have not had any problems in the past and would like to avoid them in the future.

Sincerely,

Charles and Dorothy Rucks"

There was no one else signed up to speak for or against this application.

*Motion made by Commissioner Morrow to approve **Application #02-12Z** conditioned upon site plan as approved. Commissioner Martha McDaniel seconded the motion and motion was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

2. **Application #02-14Z:** Dell Investment Corporation, Owner – Juan Rosario, Agent – 2539 U. S. Highway 19/41 (9.150 acres located in Land Lot 102 of the 3rd Land District) – requesting a rezoning from C-1, Highway Commercial, & AR-1, Agricultural and Residential, to C-1B, Heavy Commercial.

Mr. Shawn Saylor gave his address as 719 West Lanier Avenue, Fayetteville, GA and stated he was the applicant. He said that Planning & Zoning Board had approved unanimously to rezone the 3.16 acres to C-1B and the remainder to be rezoned C-1 with requirements to keep a rear buffer of about 200 ft. between their property in the back and the residences behind us and the building itself, the walls that face north and east to have a façade of masonry or stucco, replace old metal with new for the façade not visible from the road, have old trailer removed from the property and no type of salvage business on the property, which they had agreed. They also conditioned the property to auto sales and service only.

There was a discussion regarding buffering the back part of the property adjacent to the residential zoning of AR-1.

Those signed up to speak against the application were as follows:

Mr. J. A. "June" Cronic gave his address 47 Pine Hill Road and stated he was not speaking in opposition of the property but had heard reports that this might be used as a salvage yard. He said that they have the Buick/Pontiac/GMC and also Chrysler Plymouth dealership next door and Cronic Chevrolet across the street and they want to protect their property. He said that this area is what people see when they come in to Griffin and they would like to see this area grow and people take care of their property to benefit Spalding County.

Mr. Kip Claxton gave his address as 816 Woodland Drive, and inquired about the buffer and fencing on the north side. Assistant County Manager Sabine stated that this automatically required a landscape buffer of 25 feet under the ordinance.

Mr. Lee Howell gave his address as 1706 Quail Drive, stated he was not opposed to new development but had concerns, as this is the "Gateway to Spalding County" and also concerned that we don't have Tara Boulevard developed on 19/41. He said that he was specifically concerned about the façade of the building. He urged the Board to consider to having the building stucco completely or at least all but the backside of the building as the front, north and south side of the building would be visible from the expressway.

*Motion made by Commissioner Morrow to approve **Application #02-14Z** as follows: Parcel 3.156 acres to be rezoned to C-1B; property specifically excluding a salvage operation, eastern façade of building shall be renovated to consist of a brick façade, the northern and southern façade of the building shall be consisted of masonry stucco and that the detention area not be within the buffer zone; Parcel 5.994 acres to be rezoned C-1 with a 200' buffer off the western*

*edge existing and specifically exclude a salvage operation. Commissioner Martha McDaniel seconded the motion and motion was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

3. **Application #02-15Z:** H. Vic Spier, Sr., Owner – Timothy J. Hearn, Agent – Lot 5 Ninety Two Place (approximately .5 acre located in Land Lot 62 of the 3rd Land District) – requesting a rezoning from R-2, Single Family Residential, to R-2A, Single Family and Two Family Residential.

Mr. Tim Hearn gave his address as 826 Hanover Drive and stated he was the agent for this rezoning. The subject property is one of the two remaining lots in a duplex subdivision. He is asking to bring this lot in compliance of what is already in this subdivision. He said that Ninety Two Place is a two family attached dwelling subdivision. Commissioner Martha McDaniel asked Mr. Hearn about the drainage problems addressed by citizens at the Planning Commission Meeting. Mr. Hearn said that Jack Garner, Public Work Director, had met out at the site with him and he did not see any concerns if it is properly addressed.

There was no one else signed up to speak for or against this application.

Staff statement was that they concur with the Planning Commission's recommendation, which is approved conditional.

*Motion made by Commissioner Martha McDaniel to approve **Application #02-15Z** condition upon **that** the dwelling include brick, stone, or stucco accent; have a minimum 6:12 roof pitch and site built construction only. Commissioner Kendall seconded the motion and motion passed by a vote of 3-1 with Commissioner Morrow voting against the motion. **The Resolution will be incorporated into the minutes on second and final reading.***

4. **Application #02-06Z:** R. J. and Ollie M. Exum, Owners – C. Mark McCullough, Agent – 26.613 acres, more or less, off Rehoboth Church Road and Whatley Road located in Land Lot 41 of the 3rd Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.
5. **Application #02-16Z:** Doug and Angela Lawrence, Owners – Markland Management, LLC, Agent – 2.24 acres, more or less, off Rehoboth Church Road located in Land Lot 41 of the 3rd Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.

Chairman McDaniel stated that these two (2) applications above could be considered to public hearing together but would have to be voted on separately.

Mark McCullough came forward and gave his address as 1704 West Taylor Street. He presented the Board a new revised plat of the proposed subdivision. He said that Planning & Zoning Board has recommended seven lots, five on Rehoboth Church Road and two on Whatley Road as they feel this is the best use of the property; however, we the developers do not feel this is the best use of the property. He said that this revised plat sets a trend for the future development of the county with an option of interior streets, producing compatible size lots to the area and compatible size homes. He said that they have conditioned the construction of the houses and raised the square footage of houses to 1400 SF minimum. He said they were hoping to go forward with the building of trees program through the National Arbor Day Foundation. He said that there has been considerable discussion about soils and they have had a preliminary soil study done, which came back to show that the soils would be suitable for standard septic systems. The revised plan depicts a total of fourteen lots, twelve on the west side, increases the greenspace, which would be a permanent conservation easement, buffers Rehoboth Church Road with a landscape and buffers all the way around the property.

Commissioner Johnie McDaniel stated he was curious about the tract that says future development. He said it would open up the development of two more lots on Whatley Road but is not necessary for the development of our proposed subdivision. This land could be placed in a permanent conservation easement.

Those signed up to speak in opposition were as follows:

Mr. Chris Bergen gave his address as 275 Rehoboth Church Road and stated he was more or less representing the citizens in his neighborhood. He said that he was notified shortly before 5:00 p.m. this evening of the plan Mr. McCullough handed out to you at the beginning of his presentation. He said that we had reached an agreement in the other meeting and everyone was under the understanding that Mr. McCullough would be putting five lots in with road frontage on Rehoboth Church and recommended two lots on Whatley Road and had agreed with him to go three lots on Whatley Road with a land swap. He said that there were a lot of parcels with huge tracts of land out there and we are an extremely rural area. He said that the reason there are not more people here tonight to speak against is because of the agreement reached at the Planning Commission Meeting last week. He said that he does not feel that this piece of property would perk for septic tank use. He said that the residents also had a wetland issue that had been brought up but Mr. McCullough had addressed that and they no complaints on this issue any more.

He said that they expect growth but they preferred not to be densely populated.

He asked to put on the record a letter from Rocky and Teresa Akins who live at 180 Rehoboth Church Road. They could not make the meeting because his wife had been involved in a car accident and he could not make the meeting. He said that he was against the R-5 rezoning request by Mark McCullough. He said that his property adjoins this property on the east side. He said the Board's consideration to this matter would be greatly appreciated.

The recommendation from Planning & Zoning Board was to do five 200 ft. lots in keeping with the spirit of AR-1 with the road frontage and the width and the two made for subdivisions with conditions.

Commissioner Morrow stated that this was a case where Mr. McCullough went in asked for 1250 SF homes and a bunch of lots and met resistance, which is rightly so. He has come back with a reduced number of lots, twelve, all over an acre and he has gone to 1400 SF homes with several conditions. He said that he feels that the revised plat is a good design and works with traffic flow. Mr. Morrow asked Mr. McCullough if he had any objections to rezoning the property R-2 and he had no objections. Zoning Attorney Newton Galloway recommended that if you go to R-2 that you condition it to the site plan.

Assistant County Manager Sabine stated that Mr. McCullough was amenable to conditions of design criteria which were all homes would be site built with minimum 7:12 roof pitch, minimum two car garage, all homes shall have a minimum of 30% brick, stone, or masonry stucco front façade accent with remaining exterior walls featuring a hardiplank cement board siding or .46 thickness vinyl siding; all homes constructed shall incorporate a trim package, specifically the interior trim around all windows and chair rails in dining rooms; minimum 10 of the 14 homes be constructed on crawlspace or basement foundations, no exposed cinder block shall be visible from the crawlspace of basement foundations constructed; a landscaping plan consistent with the Trees Program with the National Arbor Day Foundation shall be implemented for all homes constructed and that a 25 ft. undisturbed natural buffer shall be retained as detailed.

Commissioner Martha McDaniel stated that she did not like the fact that the residents that live out there did not know about this revised plan until 5:00 this afternoon and her objection is that she has really not had an opportunity to study this revised plan and could not make a decision. She said that she did not know if the people who live out there would be comfortable with this proposal or not.

Mr. McCullough stated that if the Board approved the new design plan there would be no need to rezone the other application and it could be withdrawn.

Mr. McCullough stated what has been recommended by Planning & Zoning Board of five lots and two lots, they are willing to live with that design but they still feel that an interior road is the best design. The Planning Commission was in favor of the interior road but they could not live with the nine lots that they had recommended. He said soils became the issue that resulted in the reduction of the lots and when Planning Commission limited it to nine lots to meet the larger lots to accommodate the misconception about the soil, then we could not build the road any more because we could not afford it. Then we worked up the additional road frontage to split the lots up but we did not feel this was a good idea. Then they went back and limited it to the five lots on Rehoboth Church Road; however, I feel that if the Planning Commission had an option to go back to the interior design knowing there were no soil issues, I think this revised plan is the direction they would want.

*Motion made by Commissioner Morrow to approve **Application #02-06Z** for R-2, 1400 SF with the following conditions: site built homes only, 7:12 pitch roof, two car garage, 30% brick, stone, or masonry stucco front façade accent with remaining exterior walls featuring a hardiplank cement board siding or .46 thickness vinyl siding; all homes constructed shall incorporate a trim package, specifically*

*the interior trim around all windows and chair rails in dining rooms; minimum 10 of the 14 homes be constructed on crawlspace or basement foundations, no exposed cinder block shall be visible from the crawlspace or basement foundations constructed; a landscaping plan consistent with the Trees Program with the National Arbor Day Foundation shall be implemented for all homes constructed and that a 25 ft. undisturbed natural buffer shall be retained as detailed and conditioned on this revised site plan; no more than fourteen (14) lots with twelve (12) lots on Rehoboth Church Road and two (2) lots on Whatley Road.. Commissioner Johnie McDaniel seconded the motion and motion passed by a vote of 3-1 with Commissioner Martha McDaniel voting against the motion. **The Resolution will be incorporated into the minutes on second and final reading.***

Commissioner Martha McDaniel asked for a five-minute recess, which the Chairman agreed and called for.

Chairman McDaniel called the Public Hearing back to order.

Mr. McCullough asked that **Application #02-16Z** be withdrawn.

D. Text Amendments:

1. **Amendment to UDO #02-05:** Appendix J. Commercial/Industrial Development Ordinance – Section 405:W, and Appendix A. Subdivision Ordinance – Section 407:K – revise provision for hydrology study.

There was no one signed up to speak for or against this amendment to the UDO.

*Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Morrow amendment to UDO #02-05 was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

E. Other Business:

Conservation Subdivision S/D #02-07: Vineyard Ridge – Rajendra J. Patel, Owner – Village Partners, LLC, Developer – 51.91 acres off Vineyard Road, located in Land Lot 60 of the 3rd Land District – 78 lots.

Mr. Tom Smith of Village Partners came forward and addressed the Board. He said all they were requesting tonight is to get a preliminary map approved. He said that they have attempted to work with Community Development and also with the Planning & Zoning Board. He said that they have made changes to address some of their concerns with conditions proposed that they have agreed to. One of the changes is they agreed to the buffer along the front of the property. He said that they have not had a chance to discuss their covenant restrictions with staff but their covenants just about cover everything. There will be a homeowners association responsible for maintaining the land. The design criteria consist of minimum 1400 SF with average of mid 1800 SF consisting of 77 homes. He said there were some duplexes directly across on Vineyard Road from where they plan to build.

Mr. Jack Blackwell gave his address as 113 Old Virginia Circle, Jonesboro, GA and stated he has been in the house building since 1965. He said that they have two companies and both are certified professional builders and member of the Homebuilders Association. He said that these houses should start in the price range of \$130,000 and top out in the \$160,000. He said one of their top sellers is 2200 SF and the bulk of their sales and models would be in the mid 1800 SF.

Those signed up to speak in opposition were as follows:

Mr. Bob Burke gave his address as 120 King Richard Drive and stated he was speaking on behalf of the residents of Nottingham Estates. His objection to this subdivision plat is based strictly on the quality of life. He said this type of subdivision would have an adverse affect on schools, roads, water supplies and jails no matter where is it built in this county. He said the subdivision does not compare to what is already built in this area. He said that it does not compare to the homes in Nottingham Estates. He said the only comparison between both is they both have floodplain areas; however, these developers call their floodplain area greenspace and we call ours swamp. He said that Vineyard Road is presently a hazardous driving area. There are 263 houses already on Vineyard Road. Speaking on behalf of the residents in this area, he said they

recommend putting a moratorium on new subdivision construction until the new Land Use Plan is developed and the ordinances are rewritten to eliminate loopholes like Vineyard Ridge is jumping through right now.

Ms. Sue Fowler gave her address as 2435 Fayetteville Road and spoke in opposition to the Vineyard Ridge Subdivision. She said that this subdivision will affect their lives and homes and will impact the area with one-quarter mile of the sewer line all the way to Shoal Creek filter plant. She said her concerns were density, water shortage and consumption, overcrowding of schools and quality of air. She said they were not against growth but they do not control growth.

Ms. Jane Westmoreland gave her address as 1194 Vineyard Road and spoke in opposition to the Vineyard Ridge Subdivision. She said that her family owns the cow pasture adjacent to this piece of property that is to be developed. She spoke about density, air quality and also school overcrowding with these seventy-eight new homes being developed. She said that she was steward of the land and was taught not to tamper with the natural flow of things and gave an illustration to this effect from the book called the "The Wamp World" by Bill Peek.

Mr. Frank Westmoreland gave his address as 2530 West McIntosh Road and spoke in opposition to the Vineyard Ridge Subdivision. He stated at the last Planning Commission the subject came up about a false hill or berm that is going to be built in front of this subdivision and he was disturbed about language being used by staff such as conceal. He said the definition of conceal is to hide and if this is such a wonderful subdivision or a model for Spalding County, why do they want to conceal or hide the density in the subdivision. He said that he felt the berm should be built in the rear of the subdivision to protect those lower houses from the one hundred year flood when it comes.

Zoning Attorney Newton Galloway presented the Commissioners several memos that he asked to go over with the Board regarding this application and the conservation ordinance and how it plays out. He said that he and staff had done an analysis on this subdivision application and finds that the issue related to density in this subdivision is not a function of the conservation subdivision ordinance but is a function of the presence of sewer that can service the property. This property is zoned R-2 and this allows with water and sewer density of one unit on 20,000 SF and that has been the case since the ordinance passed in 1987 and carried forward into the 1994 ordinance.

The Conservation Subdivision ordinance requires that 50% of the entire tract is to be set aside for conservation property and in another section the ordinance requires 50% adjusted tract acreage to be set aside. He said that staff believes that the Board intended to set aside 50% of the tract rather than 50% of the adjusted tract acreage or limit the tract to the adjusted tract acreage. He said that this tract is somewhat unique because it is impacted by wetlands and we are requiring a modification in the ordinance that would remove wetlands from the calculation of allowed greenspace. It said this amendment to the ordinance would be coming to the Commissioners next month. This development plan uses wetlands as a part of the required greenspace acreage. Because of that, this development does not "enhance" greenspace. Instead, it simply reconfigures lots over the same developable area. He said the purpose of the ordinance was not to increase density and he was also recommending removing the enhanced 60% option of the entire tract, not ATA, as this would only increase the density more.

Mr. Galloway explained Mr. Smith's proposed restrictive covenants are excellent for a standard subdivision but there is a significant omission and he recommends that these restrictive covenants not be approved tonight. He said these covenants do not have what is required to protect the greenspace. The covenants have duration limitation of twenty years with ten-year renewal periods but the Homeowners Association is allowed to terminate the covenants at any time after the twenty years by two-thirds of the owners. This would remove any authority over the greenspace and he assumes the intent of the ordinance is to preserve the greenspace into perpetuity. He says that there has to be a mechanism to keep greenspace preserved into perpetuity and after reviewing Mr. Smith's covenants they are not sufficient for the perseverance of greenspace. He said that these covenants need to be redrafted to provide for this greenspace into perpetuity and this needs to be addressed before you approve the plat for Vineyard Ridge.

Under R-2 zoning with water and sewer these developers could come in with a plat today that shows 35 developable acres at 2.2 houses per acre and if they met the criteria of the platting requirements then this subdivision would be out there. If they want to do a conservation subdivision with greenspace, then we have got to deal with their covenants to provide for the perpetuity of greenspace maintenance.

Mr. Galloway recommended that this conservation subdivision should not be approved at this time. The county should review and address its concern with the applicant for resubmission. Mr. Smith commented that they would be willing to do whatever is necessary as far as the covenants are concerned to make them exactly what you want them to be.

Motion made by Commissioner Morrow to table this Conservation Subdivision S/D #02-07 until the September 26th Public Hearing meeting to give them a chance to provide for perpetuity of greenspace maintenance through the covenant provisions. Commissioner Martha McDaniel seconded the motion and motion was unanimously approved by a vote of 4-0.

Motion made by Commissioner Morrow to amend the agenda to allow discussion only to address possible future Land Use Map amendments and possible amendments to the UDO relative to density in several subdivisions. Commissioner Johnie McDaniel seconded the motion and motion passed by a vote of 3-1 with Commissioner Martha McDaniel voting against the motion.

Assistant County Manager Sabine handed out a proposed future Land Use Map, which adds a Rural Reserve Classification. This will be taken to the Planning Commission and he asked the Board to review this and make comments and to also make comments about other density classifications issues that you feel we should amend such as density within conservation subdivisions served by sanitary sewer. The intent is to reduce density in a significant portion of the county and to provide for a rural reserve classification that matches up to the existing AR-1 and AR-2 zones. Mr. Sabine commented he would like to bring this up at the next Planning Commission Workshop. *No action was taken.*

Upon motion by Commissioner Morrow, seconded by Commissioner Johnie McDaniel the meeting was unanimously adjourned at 10:00 P.M.

County Clerk

Chairman

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